

and I look forward to this next step—only one of many that have to be taken—in aiding our law enforcers, our health care providers, our public officials, such as our representatives today on the Hill, in moving forward and addressing this problem.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE ADDICTION AND RECOVERY ACT OF 2015

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 524, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 524) to authorize the Attorney General to award grants to address the national epidemics of prescription opioid abuse and heroin use.

Pending:

Grassley amendment No. 3378, in the nature of a substitute.

Grassley (for Donnelly/Capito) modified amendment No. 3374 (to amendment No. 3378), to provide follow-up services to individuals who have received opioid overdose reversal drugs.

The PRESIDING OFFICER. The Republican whip.

FILLING THE SUPREME COURT VACANCY

Mr. CORNYN. Mr. President, as the entire country knows, it was about 1 month ago that we lost Justice Antonin Scalia. Our country is still dealing with the loss of this man, whose contribution to our highest Court and the health of our Constitution cannot be overstated.

Justice Scalia understood the actual words in the Constitution were important. He famously said that if the American people realized what the Supreme Court did on occasion, which was to substitute their value judgments instead of interpreting the Constitution and laws—rather to substitute their value judgments for those of the people and their elected representatives—they might well feel their values were superior and preferable to those of an unelected lifetime member of the United States Supreme Court. That is an important reminder.

Justice Scalia was known for expressing himself very colorfully and clearly, and he clearly was no fan of making it up as you go along, which, unfortunately, can happen when the Supreme Court chooses to substitute their values for those of the American people rather than interpret the law and the Constitution.

Justice Scalia was also a key figure when it came to making sure the Court policed the check of Executive power on legislative power. In other words, he believed in the separation of powers and checks and balances. I don't think it is an exaggeration to say that Jus-

tice Scalia helped resuscitate our constitutional principles and inspired the next generation of lawyers and legal scholars and judges to care deeply about our Constitution as originally written. Because of Justice Scalia, our Republic is stronger.

Mr. President, I have listened to and read about comments made by our friends across the aisle who are questioning our intention to allow the American people to help choose who the next Justice on the Supreme Court is going to be by selecting the next President who will make that appointment. It is abundantly clear that the Constitution gives the President the authority to make a nomination, but it is just as clear that the Constitution gives the U.S. Senate the authority to determine how or whether to move forward with any nominee proposed by President Obama. There is ample precedent to support the decision made by Senate Republicans to withhold consent on the President's nominee and to allow the American people's voices to be heard.

That is not to say it will not be a Democratic President making that appointment or it could be a Republican President. We don't know at this early stage in the Presidential election. But we do know it would be improper to allow a lame-duck President to forever change the balance on the Supreme Court for perhaps the next 30 years as he is heading out the door.

There is a lot of precedent for what we have decided to do. Not since 1932 has the Senate, in a Presidential election year, confirmed a Supreme Court nominee to a vacancy arising in that same year—1932. One would have to go back even further—to 1888—to find an election-year nominee who was nominated and confirmed under a divided government, as we have today. So what Senate Democrats are actually insisting on, and the President is insisting on, is that we do something we haven't done for 130 years.

Of course, the position being taken by Senate Republicans is not a new idea either. As a matter of fact, the Democratic leader in 2005 said this—of course, this was when President George W. Bush was President. Senator REID said:

The duties of the Senate are set forth in the U.S. Constitution. Nowhere in that document does it say the Senate has a duty to give presidential appointees a vote.

Senator REID was entirely correct. That is what the Constitution says. As I mentioned earlier, the President can nominate anybody he wants, but the Constitution does not say the Senate is obligated to give a vote to that nominee.

I would note that I read some of the remarks of the Democratic leader this morning, and I just want to say he was apparently critical of a story written that included my name and the word "pinata" included in the story, suggesting this was somehow a threat.

I would be surprised if any person who actually aspired to be on the U.S.

Supreme Court—a current judge or a legal scholar or lawyer—would allow themselves to be used by this administration in making a nomination to the Supreme Court for a seat that will not be filled during the remainder of President Obama's term, knowing they will not be confirmed. And even if a member of the same political party as the President is elected President next year, there is no guarantee that same person will be renominated. So I likened the nomination process and confirmation process to a pinata, which is only to say the confirmation process around here has gotten pretty tough.

But I am not going to be preached to by the Democratic leader, by the Democrats who have been responsible for filibustering judges, creating a new verb in the English language—"Borked"—when they blocked Robert Bork's appointment to the U.S. Supreme Court, when the Democratic leader invokes the nuclear option, breaking the Senate rules for the sole purpose of packing the DC Circuit Court of Appeals with like-minded judges so that the President wouldn't have to worry about judges who might question overreaching his authority under the Constitution by issuing Executive orders or otherwise circumventing the role of Congress. This is a playbook that has been written by the Democratic leader and our colleagues across the aisle. Do they expect us to operate under a different set of rules than they themselves advocated for?

Here is what Senator REID's successor in the Democratic caucus said in 2007. This was 18 months before President George W. Bush left office. Senator SCHUMER, the Senator for New York, said: "For the rest of this President's term [18 months] we should reverse the presumption of confirmation."

I don't really know what he is talking about. There never was a presumption of confirmation. But I guess he is assuming the deference some people show when a President does nominate a Supreme Court Justice. We haven't seen much of that deference lately, I might add. But this is what Senator SCHUMER goes on to say: I will "recommend to my colleagues that we should not confirm a Supreme Court nominee except in extraordinary circumstances."

Essentially, what Senator SCHUMER was saying is that 18 months before President George W. Bush left office, if there were a vacancy created, they would presume not to confirm that nominee.

Of course, we know that back in 1992 when he was chairman of the Senate Judiciary Committee, Vice President BIDEN said: "The Senate Judiciary Committee should seriously consider not scheduling confirmation hearings on the nomination until after the political campaign season is over." That is what Vice President JOE BIDEN said in 1992.

I see the distinguished chairman of the Judiciary Committee here on the